

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**United States of America and States of the United
States, ex rel. Patrick Donohue**

Plaintiffs,

Civil Action No.: 20-cv-5396(GWH)

-vs-

**RICHARD CARRANZA, in his official capacity as
the former Chancellor of New York City Department of
Education,
MEISHA PORTER, in her official capacity as the current
Chancellor of the New York City Department of Education,
NEW YORK CITY DEPARTMENT OF EDUCATION,
NIAGARA FALLS PUBLIC SCHOOL DISTRICT,
MAKR LAURRIE, in his official capacity as Superintendent,
BUFFALO PUBLIC SCHOOL DISTRICT,
KRINER CASH, in his official capacity as Superintendent,
MASSACHUSETTS DEPARTMENT OF EDUCATION,
SOMERIVILLE PUBLIC SCHOOL DISTRICT,
MARY SKIPPER, in her official capacity as Superintendent,
as Superintendent,
JEFFREY C. RILEY, in his official capacity as Superintendent,
STAMFORD PUBLIC SCHOOL DISTRICT,
DR. TAMU LUCERO, in her official capacity as Superintendent,
LOUDON COUNTY PUBLIC SCHOOL DISTRICT,
SCOTT A. ZIEGLER, in his official capacity as Superintendent,
CAMDEN CITY PUBLIC SCHOOL DISTRICT,
KATRINA McCOMBS, in her official capacity as Superintendent,
LOS ANGELES UNIFIED SCHOOL DISTRICT,
AUSTIN BEUTNER, in her official capacity as Superintendent,
SAN DIEGO UNIFIED SCHOOL DISTRICT,
DR. LAMONT A. JACKSON, in his official capacity as Superintendent,
and CINDY MARTEN, in her official capacity as former Superintendent,
WAKE COUNTY PUBLIC SCHOOL DISTRICT,**

Defendants.

**RESPONSE TO PLAINTIFF-RELATOR'S OBJECTIONS TO MAGISTRATE
JUDGE STEWART D. AARON'S REPORT AND RECOMMENDATION
TO GRANT BUFFALO PUBLIC SCHOOL DISTRICT
and KRINER CASH'S MOTION TO DISMISS**

The Defendants “Buffalo Public School District” (“BPSD”) and former Superintendent Kriner Cash (“Dr. Kash”)(collectively referred to as the “Buffalo Defendants”), respectfully submit this Response to the Plaintiff-Relator, Patrick Donohue’s (the “Plaintiff” or the “Plaintiff-Relator”), Objections to the Report and Recommendation of Magistrate Judge Stewart D. Aaron (ECF No. 247 [Objection] and ECF No. 245 [Report and Recommendation])

The Buffalo Defendants first object to the Opposition as untimely and legal insufficient, and respectfully submit that it should not be considered. Additionally, as previously requested by Stamford Board of Education and Dr. Tamu Lucero (hereinafter the “Stamford Defendants”), and the Wake County Public School District and Cathy Quiroz Moore (hereinafter the “Wake County Defendants”) the Buffalo Defendants’ respectfully requests that those arguments put forth by the New York City Department of Education and Richard Carranza and Meisha Porter (the “New York City Defendants”), the Board of Education of the City of Chicago and Jose M. Torres, Ph.D. (the “Chicago Defendants”)(ECF No. 254), and the Niagara Falls City School District and its superintendent Mark Laurie (the “Niagara Falls Defendants”)(ECF No. 255) also apply on behalf of the Buffalo Defendants in opposition to the Plaintiff-Realtor’s Objections.

With this Court’s permission, to avoid unnecessary duplication and in the interest of brevity, the Buffalo Defendants therefore adopt, as if set forth more fully herein, all arguments asserted by the New York City, Chicago, and Niagara Falls Defendants. More specifically, those arguments include but are not limited to the following:

- a. the Plaintiff-Relator's Objections simply rehashes and reargues the arguments made to Magistrate Judge Aaron;
- b. the Plaintiff-Relator has failed to point out any argument that was not considered by Magistrate Judge Aaron;
- c. the Plaintiff-Relator cannot demonstrate clear error by Magistrate Judge Aaron; and
- d. there is no basis for granting the Plaintiff-Relator leave to amend his complaint,

For these reasons, and those set forth more fully in the New York City, Chicago, and Niagara Falls Defendants' responses, the Wake County Defendants respectfully request that the review the Report and Recommendation of Magistrate Judge Aaron and find that the Plaintiff-Relator has established no valid basis to object.

Therefore, the Court should adopt Magistrate Judge Aaron's Report and Recommendation in full and dismiss this action.

Dated: February 13, 2023
Buffalo, New York

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